

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
SHERMAN DIVISION**

KELSIE R. WHITTEN, JR., #2274035

VS.

AMBER VAN DEN RAADT, ET AL.

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CIVIL ACTION NO. 4:21cv566

**MEMORANDUM ADOPTING REPORT AND
RECOMMENDATION OF UNITED STATES MAGISTRATE JUDGE**

Came on for consideration the Report and Recommendation of the United States Magistrate Judge in this action (the “Report”) (Dkt. #41), this matter having been heretofore referred to the Magistrate Judge pursuant to 28 U.S.C. § 636.

In the Report, the Magistrate Judge recommends that Plaintiff’s lawsuit be dismissed. Specifically, the Magistrate Judge recommends: (1) the claims against Defendant Amber Van Den Raadt be dismissed without prejudice under Federal Rules of Civil Procedure 4(m) and 41(b); (2) the claims against Defendant UTMB Cole Unit be dismissed with prejudice pursuant to 28 U.S.C. §§ 1915A(b)(1) and 1915(e) for failure to state a claim upon which relief can be granted; and (3) the dismissal count as a strike pursuant to 28 U.S.C. § 1915(g) based on the recommendation that some claims be dismissed for failure to state a claim upon which relief may be granted.

Having received the Report of the United States Magistrate Judge, and no timely objections being filed, the Court is of the opinion that the findings and conclusions of the Magistrate Judge are correct and adopts the Magistrate Judge’s report as the findings and conclusions of the court.

IT IS ORDERED that Plaintiff’s lawsuit is **DISMISSED**; this dismissal counts as a strike pursuant to 28 U.S.C. § 1915(g); and the Clerk of Court is directed to **CLOSE** this civil action.

SIGNED this 5th day of September, 2023.

A handwritten signature in black ink, reading "Amos Mazzant". The signature is written in a cursive style with a horizontal line underneath it.

AMOS L. MAZZANT
UNITED STATES DISTRICT JUDGE